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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/699,146	10/30/2003	Allan R. Overholt	CN0101 US DIV	1468

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WILMINGTON, DE 19805

EXAMINER

JACKSON, MONIQUE R

ART UNIT	PAPER NUMBER
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1773

DATE MAILED: 02/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/699,146

Applicant(s)

OVERHOLT ET AL.

Examiner

Monique R Jackson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 15-25 is/are pending in the application.
4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 15-25 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>10/03</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

1. The preliminary amendment filed 12/30/03 has been entered. Claims 1-14 have been canceled. Claims 15-25 are pending in the application.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 16-18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claims 16-18 recite the limitations "plate-like", "fiber-like", and "ribbon-like", respectively, however, the use of the term "like" extends the scope of the expression as to render it indefinite and one having ordinary skill in the art would not be reasonably apprised of the scope of the claimed invention and could not interpret the metes and bounds of the claim so as to understand how to avoid infringement.
4. Claim 19 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 19 recites the limitation "the anisotropic pigment" in line 2. There is insufficient antecedent basis for this limitation in the claim.
5. Claim 22 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 22 includes a parenthetical expression and it is unclear whether the limitation in the parenthesis is meant to be encompassed by the claim.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 15-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over WO 98/38244 (WO'244.) WO'244 teaches a plastic surface material having a bold and aesthetically pleasing appearance achieved by the use of TFR pigments formed by orienting reflective flakes in a thermosetting resin substrate and then grinding the substrate to a particulate material (Abstract; Page 3, lines 3-14.) WO'244 teaches that in a preferred process for making the TFR particles, conventional plastic, preferably curable polyester or acrylics are mixed together with conventional fillers, commonly used in the manufacture of FOUNTAINHEAD and CORIAN type products, such as those instantly claimed, together with a particular commercially available pigment which comprises small mica flakes of about 5-50 microns and having angstrom thickness metal oxide coatings on their surfaces (Page 3, lines 14-23.) WO'244 recites that after the coated mica flakes, optional fillers, optional conventional pigments for color, and uncured plastic are mixed together to form the TFR composition, curing (preferably complete curing) of the plastic is carried out in such a way as to cause the mica flakes to become oriented in particular orientation patterns (Page 3, lines 24-28.) WO'244 teaches that regardless of how orientation of the flakes is carried out, the cured product, e.g. in solid ribbon form, is then ground to different particle sizes, to produce a granular TFR product, which translucent fire retardant particles are themselves used as an additive in the manufacture of the final products (Page 3, line

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34-Page 4, line 3.) WO'244 further teaches that a wide variety of product appearances can be provided according to the invention: for example, using appropriate brown pigments, products having the appearance of burl wood are made (Page 4, lines 13-17.) In the manufacture of the final product, the TFRs become randomly reoriented to provide the final product, which has a somewhat pearlescent appearance; however, it is preferred that the composition of the final decorative product be passed through a die to orient parallel to the plane of the resultant product whatever raw coated flakes may be present in the composition (Page 5, lines 1-7.) WO'244 also teaches that the oriented TFR particles may have various sizes wherein their size is limited by the thickness of the final product and the desired decorative effect (Page 4.) WO'244 do not specifically teach that the particles have an aspect ratio of at least three as instantly claimed however one having ordinary skill in the art at the time of the invention would have been motivated to determine the optimum particle size, shape, and aspect ratio to provide the desired decorative effect for a particular end use and further to incorporate conventional additives and colorants such as those instantly claimed in the invention taught by WP'244.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Monique R Jackson whose telephone number is 571-272-1508. The examiner can normally be reached on Mondays-Thursdays, 8:00AM-4:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Deborah Jones can be reached on 571-272-1535. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Monique R. Jackson
Primary Examiner
Technology Center 1700
February 22, 2005